

y represents an integer of from 1 to 7,

with the proviso that the compound represented by formula [XI] is added by any one method of the following items 1) to 4):

- 1) a method of directly dissolving or dispersing the compound in an emulsion layer or a hydrophilic colloid layer;
- 2) a method of dissolving or dispersing the compound in an aqueous solution or a solvent and then using the solution in an emulsion layer or a hydrophilic colloid layer;
- 3) a method of allowing a hydrophilic polymer having a charge opposite to the dye ion to be present in a layer as a mordant and causing localization of the compound in a specific layer by the interaction between the polymer and the dye molecule; and
- 4) a method of dissolving the compound and then using a surface active agent.--

21 --24. The silver halide color photographic light-sensitive material for movies as claimed in claim 23, wherein the solid fine particle dispersion of the dye is one which is heat-treated at 40°C after the dispersion.--

REMARKS

Claims 2, 4-9 and 11-24 are pending. No new matter has been added by way of the above amendments. The subject matter of cancelled claims 1 and 3 has been combined in newly added claim

21. The dependencies of 2 and 4-9 have been amended to reflect the cancellation of claims 1 and 3 and the addition of claim 21. Claim 4 has also been amended for minor matter of form not relating to prior art. The subject matter of cancelled claim 10 and the methods described in the present specification at page 179, line 1 to page 180, line 22 has been combined in newly added claim 23. The dependencies of claims 11, 12, 13, 15, 16, 17, 18, and 19 have been amended to reflect the cancellation of claim 10 and the addition of claim 23. Lastly, newly added claims 22 and 24 are supported by the present specification at page 118, lines 3-14. Accordingly, no new matter has been added.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Objection to the Claims

At page 2 of the outstanding Office Action the Examiner has objected to claims 4 and 7. The Examiner points out that although claim 4 claims formulas II and III, both chemical formulas are labeled as III. Accordingly, Applicants have amended claim 4 to correct this issue and to be consistent with the present specification at page 23. Thus, this objection is moot.

Issues Under 35 U.S.C. 103(a)

The Examiner has rejected claims 1 and 2 under 35 U.S.C. 103(a) as being obvious over Anderson et al., USP 5,747,232 (hereinafter referred to as Anderson '232) in view of Sakai, USP 5,573,898 (hereinafter referred to as Sakai '898). Applicants respectfully traverse.

Applicants note that the Examiner has only rejected claims 1 and 2 as being obvious over Anderson '232 in view of Sakai '898. However, previously pending claim 1 has now been combined with claim 3 in new claim 21. Moreover, claim 2 is now dependent upon new claim 21. Claim 3 was not previously rejected as being obvious over Anderson '232 in view of Sakai '898. Accordingly, the Examiner's outstanding rejection of claims 1 and 2 is overcome. Withdrawal of this rejection is requested.

The Examiner has also rejected claims 3, 4, 6-8, 10, 12-17, 19 and 20 under 35 U.S.C. 103(a) as being obvious over Fujita et al., USP 5,273,866 (hereinafter referred to as Fujita '866) in view of Sakai '898. Applicants respectfully traverse.

Distinctions Between the Present Invention and the Cited Art

Fujita '866 discloses a solid fine particle dispersion of a dye reading upon formula [I] of the present invention. However, the coupler by Fujita '866 is a conventional cyan coupler of the a phenol type, which is not a cyan coupler represented by formula

[C-1] according to the present invention. Fujita '866 fails to suggest or disclose the coupler represented by formula [C-1] of the present invention. The Examiner attempts cure this deficiency with Sakai '898. However, this attempt must fail.

In Sakai '898 the cyan coupler of the present invention is used, but the non-color forming hydrophilic colloid layer which is positioned between the support and a layer most adjacent to the support is not disclosed. Moreover, the solid fine particle dispersion of the dye represented by formula [I] according to the present invention is not disclosed by Sakai '898.

In contrast, the present invention contains a cyan coupler represented by formula [C-1] and a solid fine particle dispersion of the dye represented by formula [I] in the non-color forming hydrophilic colloid layer which is positioned between the support and a light-sensitive silver halide emulsion layer most adjacent to the support. This combination is not suggested by the prior art. Moreover, as a result of this unique combination of elements, the present invention unexpectedly obtains excellent image quality.

The Examiner is not free use the present claims as a template in order to pick and choose elements from different references in an effort to construct the claimed invention. Such a rejection amounts to hindsight reconstruction and is therefore cannot properly set forth a *prima facie* case of obviousness. However,

even if, *arguendo*, the Examiner has hypothetically established a *prima facie* case of obviousness, the unexpected results of the present invention referred to above rebut this hypothetical rejection.

The unexpected results of the present invention are demonstrated in Example 2 of the present specification. It is evident from the results of Table 2-1 of the present specification that the sharpness is extremely improved and the staining of the white background can be extremely reduced, by combination of the coupler represented by formula [C-1] and the solid fine particle dispersion of the dye represented by formula [1]. That is, the unexpected effect of the present invention is demonstrated from the results of Sample Nos. 201 and 205 in Table 2-1 (a copy of which is attached hereto for the Examiner's convenience) of the present specification. In describing the results referred to above, the following information is provided to further enhance the Examiner's understanding.

Dispersion D (see column 2 of Table 2-1) falls within the scope of formula (III) of Fujita '866 and is closest to Compound III-34 (column 25 and 26 of Fujita '866). Compound III-34 is similar to compounds of Table 1 of the present specification (at page 106), wherein  $R^2$  at one side of the acidic nucleus is not H but rather  $CH_3$ , and  $R_3$  in the acidic nucleus is  $COOC_2H_5$ .

ExC is a phenol type cyan coupler which is similar to a coupler described in the example of Fujita '866.

It is evident from a comparison of Sample No. 201 and Sample No. 202 of Table 2-1, that even if the conventional Cyan Coupler ExC is used, when Dye Solid Fine Particle Dispersion D is not used, the white background density is increased by 0.04 which is not preferable and the sharpness is only increased by 4 (from 18 to 22).

It is also evident from a comparison of Sample No. 202 and Sample No. 203 of Table 2-1, that when the amount of Dye F-1 and Dye F-2 used is increased, the sharpness is further improved.

However, a comparison of Sample No. 203 and Sample No. 204 of Table 2-1 reveals that when the amount of Dye F-1 and Dye F-2 used is increased, if Coupler (1) of the present invention is used in combination, the sharpness is conversely decreased by 5 from 34 to 29.

On the other hand, as is apparent from the results of Sample No. 205 (Invention) in Table 2-1 of the present specification, that when Coupler (1) of the present invention and Dye Solid Fine Particle Dispersion D are used in combination, the sharpness is extremely improved and further the white background density is extremely decreased. For example, as is apparent from a comparison of Sample No. 202 (using Dispersion D and the conventional cyan coupler) and Sample No. 205 (Invention) in Table

201 of the present specification, the sharpness of Sample No. 205 is increased by 17 from 22 to 39 and the background density is decreased by 0.08 from 0.04 to -0.04.

Conversely, as is apparent from a comparison of Sample No. 204 using coupler (1) of the present invention and no Dispersion D and Sample No. 205 in Table 2-1 of the present specification, the sharpness of Sample No. 205 is increased by 10 from 29 to 39 and the background density is decreased by 0.05 from 0.01 to -0.01.

These results clearly indicate that the present invention, using a unique combination of elements, achieves totally unexpected results compared to the prior art. Accordingly, any hypothetical *prima facie* case of obviousness is defeated. The Examiner is therefore requested to withdraw the above rejection.

Concerning claim 23, containing the subject matter of cancelled claim 10, the compound represented by formula [XI] according to the present invention falls within the scope of formula (III) in Fujita '866. However, in Fujita '866, the compound represented by formula (III) is used as the solid fine particle dispersion. On the contrary, in the present invention the compound represented by formula (XI) is not used as the solid fine particle dispersion. This is made evident by the claims as well as page 179, line 1 to page 180, line 22 of the present specification. Accordingly, the present invention is entirely different from Fujita '866. The Examiner is therefore

respectfully requested to withdraw the rejection of claims 3, 4, 6-8, 10, 12-17, 19 and 20 under 35 U.S.C. 103(a) as being obvious over Fujita '866 in view of Sakai '898.

The Examiner has rejected claims 9 and 11 under 35 U.S.C. 103(a) as being obvious over Fujita '866 in view of Sakai '898 and Swank et al., USP 4,006,025 (hereinafter referred to as Swank '025). Applicants respectfully traverse.

Applicants distinguished independent claims 21 and 23 over Fujita '866 and Sakai '898. Claims 9 and 11 depend upon claims 21 and 23, respectively. The secondary reference of Swank '025 fails to cure the deficiencies of the Fujita '866 and Sakai '898. Accordingly, claims 9 and 11 are also distinguished. Withdrawal of this rejection is requested.

Lastly, the Examiner has rejected claims 5 and 18 under 35 U.S.C. 103(a) as being obvious over Anderson '232 in view of Sakai '898, Fujita '866, Mifune et al., USP 4,713,321 (hereinafter referred to as Mifune '321). Applicants respectfully traverse.

Independent claims 21 and 23, upon which claims 5 and 18 depend, were shown above to be non-obvious over Anderson '232, Sakai '898 and Fujita '866. Mifune '321 fails to cure the deficiencies of the above rejections. Accordingly, claims 5 and 18 are also distinguished. Withdrawal of this rejection is respectfully requested.

In view of the above comments, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims. In particular, Applicants have distinguished the currently pending claims from the art cited by the Examiner. A Notice of Allowability is earnestly solicited.

If the Examiner has any questions regarding the above matters, please contact Applicant's representative, in the Washington, metropolitan area at the phone number listed below.

Pursuant to 37 C.F.R. 1.17 and 1.136(a), the Applicant respectfully petitions for a three (3) month extension of time for filing a response in connection with the present application. The required extension fee of \$890.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 

Marc S. Weiner  
Reg. No. 32,181

MSW/CAM/gh

P. O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachments: Table 2-1

TABLE 2-1

Contents and Evaluation Results of Samples 201 to 211

Sample No.	Kind of Dye Solid Fine Particle Dispersion in 1st Layer	Cyan Coupler of the Invention		Amount of Dye Coated (g/m <sup>2</sup> )		Sharpness	White Background Density	Remarks
		Kind	Amount Used (mol%)	Amount of 4th Layer Coated (%)	F-1			
201	none	none	-	100	0.040	0.093	18	- Comparison
202	D	none	-	100	0.040	0.093	22	0.04 Comparison
203	D	none	-	100	0.048	0.115	34	0.09 Comparison
204	none	(1)	70	69	0.080	0.188	29	0.01 Invention
205	D	(1)	70	69	0.030	0.088	39	-0.04 Invention
206	D	(1)	20	87	0.030	0.091	35	0.00 Invention
207	D	(1)	50	74	0.030	0.089	37	0.00 Invention
208	D	(25)	70	73	0.030	0.088	36	-0.02 Invention
209	A	(1)	70	69	0.030	0.088	32	-0.02 Invention
210	C	(1)	70	69	0.040	0.090	28	0.00 Invention
211	E	(1)	70	69	0.030	0.088	38	-0.03 Invention



101100 MAIL ROOM  
OCT 18 2000  
RECEIVED

6  
OCT 18 2000  
RECEIVED  
U.S. PATENT & TRADEMARK OFFICE  
OCT 12 2000